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UNITED STATES DEPARTMENT OF COMMERCE
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(FOR APPLICANT)

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In re Application of :
TUCHOLSKI et al :
Serial No. 07/641,394 :
Filed: JANUARY 15, 1991 :
Attorney Docket No. :
EBC-SP-0091 :

LETTER RE ACCESS

On SEPTEMBER 27, 1993, a PETITION FOR ACCESS (copy enclosed) to the above-identified application was filed in the Patent and Trademark Office by Peter W. Peterson of Delio & Peterson. Petitioner states that U.S. Patent No. 5,223,003 relies for its filing date on the earlier filed application identified in the heading above and requests access to the parent file as well as the prosecution history.

A review of the record shows the '003 patent is identified as issuing from a Continuation-In-Part application of the above-noted '394 application. Accordingly, the '003 patent relies, under 35 USC 120, upon the filing date of the '394 application with regard to common subject matter.

Whenever a patent relies upon the filing date of an earlier but still pending application, the public is entitled to see the portion of the earlier application that relates to the common subject matter, and also what prosecution, if any, was had in the earlier application of subject matter claimed in the patent. See MPEP 103.

Accordingly, applicant is hereby given an opportunity to object or agree to petitioner being granted access to the entire present '394 application file. Should applicant object, applicant must file two sets of a copy of the portion of the parent '394 application that relates to the common subject matter, including all materials relating to the prosecution in the application of

the subject matter claimed in the patent. The required copies must be hand-carried to the Office of the Assistant Commissioner for Patents, Office of Special Program Examination, Crystal Park 1, Suite 605, Washington, D.C. 20231, within THREE WEEKS from the date of this letter. The three week period for response is not extendable under the provisions of 37 CFR 1.136(a).



Albert J. Mayer
Special Program Examiner
Office of the Assistant Commissioner for Patents

Enclosure: Copy of petition for access.